



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RIGHTS

Michael O. Leavitt
Governor

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Executive Director

Robert L. Morgan
State Engineer

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July 12, 1994

MR HOWARD LAMBORN
PO 154
Laketown, UT 84038

Re: Measuring Devices Notice - Otter Creek

Dear Mr Lamborn:

During a meeting held on June 30, 1994, between Otter Creek water users and representatives of the State Engineer's office, there was considerable discussion regarding the distribution and operation of Otter Creek and its tributaries and the need for installation of water measurement devices and headgates at each diversion. The water users agreed to install measuring devices and headgates at each diversion so that the commissioner can determine the divertable flow and distribute the appropriate percentage to each water user.

This is in Keeping with Section 73-5-4 of the Utah Code Annotated, 1953 as amended, which states in part:

"Every person using water in this state shall construct or install and maintain a substantial head gate, cap, valve or other controlling works, weir, flume and measuring device at each point where water is diverted or turned out, for the purpose of regulating and measuring the quantity of water that may be used. ...If the owner of irrigation works, canals, reservoirs, wells, pumps or tunnels shall refuse or neglect to construct such head gates, caps, valves, flumes or measuring devices after thirty days' notice to do so by the state engineer, the state engineer may forbid the use of water until the user thereof shall comply with this requirement."

Therefore, you are hereby notified that all diversions within the Otter Creek are to be equipped with functional and accurate measuring devices and lockable headgates prior to **the beginning of the 1996 irrigation season**. It will be very helpful to the commissioner if headgates are installed on the major diversions prior to the beginning of the 1995 irrigation season. Each diversion will be inspected for compliance and those diversions not in compliance will be tagged by the River Commissioner. The tag will represent an order to cease the use of water. Those users who do not comply will

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either have their diversions closed or will face legal action where the State Engineer will seek a court order requiring that the diversion be closed until such time as the headgates and measuring devices are installed. This letter commences informal adjudicative proceedings to be conducted pursuant to Rules R655-6 of the Administrative Rules of the Division of Water Rights.

Thank you for your cooperation in attending to this matter in a timely manner. If you have any questions concerning this notice please contact Bob Fotheringham at 752-8755 or Lee Sim at 538-7380.

Sincerely,



Robert L. Morgan, P.E.
State Engineer

RLM:GA

cc: S Lee Sim
S Bob Fotheringham
S John H. Mabey, Asst. Attorney General
S Ron Hoffman, Commissioner